



State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street
Montpelier, VT 05609-0201
www.adm.state.vt.us

[phone] 802-828-3322
[fax] 802-828-3320

Michael K. Smith, Secretary

MEMORANDUM

To: All State Employees at the Bennington State Office Building
From: Michael K. Smith, Secretary of Administration
Date: February 1, 2007
Re: Relocation and other issues

I would like to thank everyone for their assistance and input during my visit earlier this week. The Governor and I remain very concerned about the pace of our relocation efforts, and we know that this is a stressful and frustrating time for all of you.

During Tuesday's meeting at the State Office Building, I indicated that we would follow up on several questions and concerns that were raised. On Wednesday, I pulled together a group of officials from across state government to respond to some of the questions and concerns. I have grouped most of the questions into five broad categories: 1) a timeline for getting employees out of the building; 2) workers' compensation claims; 3) sick leave; 4) paying for remediation of mold in trailers; and 5) questions over the autonomy of environmental engineers.

1. A timeline for getting employees out of the building:

After our meeting with employees, the Governor indicated to me that he was frustrated with the pace of relocation efforts and not being able to share any assurances as to when the employees can vacate the building. The Department of Buildings and General Services and some Senators in the Vermont Senate have indicated that April 1st should be the deadline for moving employees out of the building. The Governor and I do not believe that such a timetable is quick enough for two reasons. First, most of you indicated that we need quicker action and we agree. Second, this is a major construction project and if there are delays, such as bad weather or any other unexpected construction delay, you will again be waiting to get out of the building. Therefore, I have ordered a phased shutdown of the building.

Planning for this shutdown will begin immediately. I have already had discussions with Chief Justice Rieber, and he and I agree that the courts and judicial branch personnel can be moved to existing courthouses in Manchester and Bennington for two to three months, and then back to the modular units when they are completed. They are beginning to work on a timetable for the

move. There is a very high degree of confidence that the 9,000 square foot modular building that will house personnel from the Department of Corrections will be completed by March 1st. Department of Corrections personnel will be moved there when it is completed. I have asked the Agency of Human Services, the Department of Labor, the State's Attorneys' Office, and the Department of Buildings and General Services to work together and with the Town of Bennington to come up with a plan for a two to three month location for the remainder of the employees in the building, with a move to the modular facilities when they are ready for occupancy.

Over the next few months, there will be much disruption to you and the public. However, I strongly believe we need to address the health concerns you raised at our meeting. Let me also state the obvious: while we plan and hope for a smooth and hassle-free transition to temporary accommodations, there will invariably be bumps in the road and setbacks and frustration. Such is the nature of massive relocation efforts like the one we are about to engage in. We will need to work together to make this transition as smooth as possible for all employees and for the people we serve.

2. Concerns over the fact that workers' compensation claims against the state are handled by a division within BGS, and concerns over the fact that claims for sarcoidosis have been denied by the state:

In two days, I cannot thoroughly review the proper structure adjusting workers' compensation claims by state employees.

However, what I can do in two days is set up a procedure that provides payment to employees who file for workers' compensation claims that have been diagnosed with sarcoidosis. Beginning as soon as possible, the State of Vermont will voluntarily advance payment without prejudice for out-of-pocket costs related to the treatment of medically-diagnosed sarcoidosis for employees at the Bennington State Office Building who provide medical evidence of a sarcoidosis diagnosis. These voluntary payments will continue until the Department of Labor has made its determination as to the compensability of the claims. We are working with the appropriate departments to make this happen, and further information on this topic will be communicated in the very near future.

3. Concern over the fact that employees have had to use sick leave to deal with building-related illnesses:

I have asked the Department of Human Resources to explore with the VSEA (this is a contractual issue) the concept of establishing a special leave benefit so employees could use leave without expending all their personal sick time. This could be used while in the existing building.

As a footnote to the above, I would like to point out that the Department of Human Resources' power to negotiate with the union is limited to executive branch employees. Employees of the

judicial branch should expect to be contacted by appropriate officials in that branch as to how they are planning to deal with this difficult issue.

4. Concern over who should pay for mold remediation of the DOC modular units:

The modular units that will be used by DOC were leased by the State of Vermont from Fecteau Homes. Under the terms of the lease, Fecteau Homes agreed to provide modular units for use by the State as temporary work space for employees. Once the mold issue was identified, Fecteau was notified that the units, in their current condition, were not suitable for use as temporary office space and that the situation needed to be corrected as soon as possible. Due to the urgency of the situation, the State elected to immediately proceed with the necessary testing and remediation of the units. However, Fecteau has been notified that the cost of remediation will ultimately be borne by Fecteau.

5. Environmental engineers engaged by the state should be given full autonomy and authority to test for whatever they feel is appropriate:

I have instructed that the environmental engineers (The Turner Group) hired by the State be given unfettered access, autonomy, and authority to test the Bennington Office Building. With that said, there understandably needs to be some monitoring and accountability for any costs. I do not want a private entity to have unfettered access to the state's checkbook. We will put in appropriate cost control and monitoring mechanisms.

The decision to utilize the Turner Group was made after consultation with the National Institute for Occupational Safety and Health and the Vermont Department of Health. The company is well known and has recent experience and expertise with environmental analysis of large multi-floor office buildings. The Turner Group has worked with NIOSH and the CDC. Turner is coordinating testing and working with NIOSH directly, and all actions and testing are done in conjunction with NIOSH, which is apprised of all actions taken by the various entities.

Needless to say there are many issues that are still being sorted out. I will ask AHS, the Judiciary and other departments to coordinate with supervisors in Bennington to determine how individual departments plan to meet my order for a phased shutdown of the building. As I stated in my visit earlier this week, I am committed to proceeding in an open and upfront fashion, and I will inform you of important developments and decisions in a timely fashion. Again, I recognize this has been a stressful and frustrating time for all, and I hope to have your confidence and trust as we move forward together in resolving this complicated and confusing situation. I hope to be in Bennington very soon and be able to continue the one-on-one discussions that we started last week.

Thank you for allowing us to hear your concerns and I hope that I am starting to address them in a meaningful way.